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Of Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PENDLETON DIVISION

**MAGDALENA MURGUIA-VELASCO**

Civil No.

Plaintiff,

vs.

COMPLAINT

**SHEARER'S FOODS, LLC,  
BARRETT BUSINESS SERVICES, INC.**

Discrimination in Employment  
(42 U.S.C. § 2000e-2,  
ORS 659A.030)

Defendants.

I. JURISDICTION

1. This court has jurisdiction pursuant to 42 U.S.C. § 2000e-5 for violations of Title VII of the Civil Rights Act of 1964 ("Title VII"); 28 U.S.C. § 1331 as this action arises under the laws of the United States; and 28 U.S.C. § 1337 as this action arises under an Act of Congress regulating commerce.

2. Pursuant to 28 U.S.C. § 1367, this court has supplemental jurisdiction over the claim based on the laws of Oregon, as it is so related to the claim within this court's original jurisdiction that it forms part of the same case or controversy.

## II. PARTIES

3. At all relevant times, plaintiff was a resident of Umatilla County, Oregon.

4. At all relevant times, defendant Shearer's Foods, LLC ("Shearer's") was an Ohio corporation doing business in Umatilla County, Oregon.

5. At all relevant times, defendant Barrett Business Services, Inc. ("BBSI") was a Washington corporation doing business in Umatilla County, Oregon.

## III. FACTS

6. Defendant BBSI is a temporary employment agency with branches in various locations including Hermiston, Oregon.

7. Defendant Shearer's is a snack food manufacturing company operating in various locations, including Hermiston, Oregon.

8. Defendants are engaged in businesses affecting interstate commerce.

9. BBSI placed plaintiff to work at Shearer's on or about March 1, 2011. Plaintiff worked off and on at Shearer's until about June 16, 2011.

10. Plaintiff is a monolingual Spanish-speaker from Mexico and understands very little English.

11. Plaintiff's job at Shearer's consisted of sorting potato chips on a conveyor belt.

12. Plaintiff was qualified for the job and performed it satisfactorily.

13. On or about June 17, 2011, BBSI told plaintiff that it could not continue to place plaintiff at Shearer's because Shearer's had a policy against employing non-English speaking persons.

14. BBSI continued to place English-speakers in sorting jobs at Shearer's.

15. Shearers' Foods continued to hire English-speakers for sorting jobs.

16. Plaintiff's inability to speak English did not affect her ability to perform her job duties satisfactorily.

17. The English-only policy had an adverse impact on monolingual Spanish speakers from Spanish-speaking countries, including plaintiff.

18. Plaintiff filed a charge of employment discrimination against defendants on the basis of national origin with the Equal Employment Opportunity Commission ("EEOC") on or about March 19, 2012. By notice dated April 19, 2013 the EEOC informed plaintiff of her right to sue defendants. Plaintiff has exhausted her administrative remedies.

19. As a direct result of defendants' actions plaintiff suffered economic loss and emotional distress, and has otherwise suffered damages for which she is entitled to recover.

#### IV. CLAIMS FOR RELIEF

##### (First Claim for Relief – Title VII)

20. Shearer's discriminated against plaintiff because of her national origin in violation of 42 U.S.C. § 2000e-2.

21. BBSI discriminated against plaintiff because of her national origin, in violation of 42 U.S.C. § 2000e-2.

##### (Second Claim—Oregon Employment Discrimination Act)

22. Shearer's discriminated against plaintiff because of her national origin in violation of ORS 659A.030.

23. BBSI discriminated against plaintiff because of her national origin, in violation of ORS 659A.030.

#### V. PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request that this court enter judgment in favor of plaintiff and against defendants jointly and severally as follows:

1. Reinstatement with back pay pursuant to 42 U.S.C. § 2000e-5 and ORS 659A.885;
2. Compensatory damages pursuant to 42 U.S.C. § 2000e-5 and ORS 659A.885;
3. Attorney fees and costs pursuant to 42 U.S.C. § 2000e-5 and ORS 659A.885;
4. Pre-judgment and post-judgment interest as allowed by law; and
5. Such other relief as this court deems just and proper.

Dated this 7<sup>th</sup> day of June, 2013.

s/Sarah S. E. Lora

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